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OCT 12 2005

Attorney's Docket Number 045090/196876

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: FARAMARZ FARAHI

Serial No.: 09/803,342

Group Art Unit: 2874

Filed: 9 March 2001

Examiner: Ullah, Akm Enayet

For: INTEGRATED OPTICAL CIRCUITS

Attention: Office of Petitions  
MAIL STOP PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON  
FAILURE TO RECEIVE OFFICE ACTION**

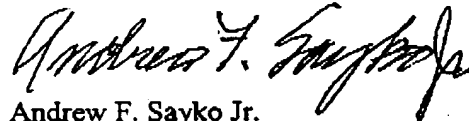
Based on a telephone call to the Patent Electronic Business Service Center on October 7, 2005, applicant learned that a Non-Final Rejection was mailed on March 30, 2005. Neither applicant nor his attorney has ever received a copy of the Office Action. A search of the file jacket and docket records indicated that the Non-Final Rejection was not received by applicant's attorney.

Applicant's attorney prepared an Appeal Brief that was submitted to the United States Patent and Trademark Office ("USPTO") on April 25, 2005. This was in response to the Final Rejection mailed on December 1, 2004 and pursuant to the Notice of Appeal filed on February 24, 2005 by applicant. It was the belief of both applicant and applicant's attorney that the last correspondence sent by the USPTO was the Advisory Action Before the Filing of an Appeal Brief.

Applicant's submission of an Appeal Brief and payment of the \$250 Appeal Fee for a Small Entity is clear evidence that neither applicant nor applicant's attorney had received the Non-Final Rejection mailed by the USPTO on March 30, 2005. Applicant's attorney would not have spent the time preparing this Appeal Brief had he received this Non-Final Rejection.

Therefore, under the standard established by *Delgar v. Schulyer*, 172 USPQ 513, applicant respectfully requests that the USPTO withdraw the holding of abandonment and remail the Non-Final Rejection.

Respectfully submitted,



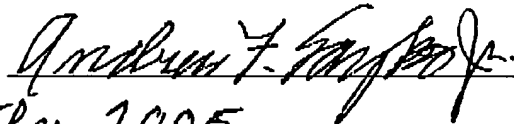
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**CERTIFICATE OF TRANSMISSION (37 CFR 1.8a AND 1.10)**

I hereby certify that this correspondence (2 pages) is, on the date shown below, being transmitted by facsimile to the United States Patent and Trademark Office at Fax number (571) 273-8300.

Andrew F. Sayko Jr.:



Date: 12 October 2005